

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

ROBERT DAVID NEAL,)	
)	
Plaintiff,)	
vs.)	2:13-cv-188-JMS-MJD
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Entry and Notice

I.

A prisoner who has filed at least three suits or appeals that are frivolous, malicious, or fail to state a claim is ineligible to proceed *in forma pauperis* and must prepay all fees unless in imminent physical danger. 28 U.S.C. § 1915(g); see *Ammons v. Gerlinger*, 547 F.3d 724, 725 (7th Cir. 2008). In addition, [a] litigant who knows that he has accumulated three or more frivolous suits or appeals must alert the court to that fact. *Id.* (citing *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999)).

The plaintiff's request to proceed *in forma pauperis* was granted on July 8, 2013. However, the plaintiff did not supply information from which it could and should have been determined that he was and is ineligible for that status because of the barrier created by 28 U.S.C. § 1915(g) and because of his litigation history.

In *Evans v. Illinois Department of Corrections*, 150 F.3d 810 (7th Cir. 1998), it was noted that a prisoner-litigant in these circumstances is entitled to know the cases the court relies on when making the three-strikes determination. For plaintiff Neal's reference, the cases on which the court relies in finding three strikes are the following:

Nelson v. Briggs, No. 1:11-cv-558-JMS-MJD (S.D.Ind. July 26, 2011)(dismissed for failure to state a claim upon which relief can be granted)

Nelson v. Quintana, No. 5:10-cv-484-UA-DUTY (C.D.Calif. April 9, 2010) (dismissed for failure to state a claim upon which relief can be granted)

Neal v. United States, 2013 WL 1715779 (Ct.Cl. April 19, 2013)(“Plaintiff’s complaint may also be dismissed because it is clearly frivolous and an abuse of the judicial system.”)

II.

A.

Based on the information reviewed in Part I of this Entry, the order granting the plaintiff’s request to proceed *in forma pauperis* [dkt. 5] is **vacated**.

Also based on the information reviewed in Part I of this Entry, the request to proceed *in forma pauperis* [dkt. 2] is **denied**.

B.

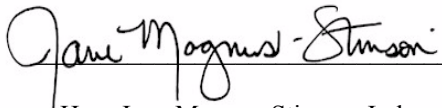
The plaintiff shall have through August 30, 2013, in which to pay the \$350.00 filing fee and the \$50.00 administrative fee, a total of 400.00, to the clerk of the district court.

C.

The plaintiff is reminded that "unpaid docket fees incurred by litigants subject to Section 1915(g) lead straight to an order forbidding further litigation." *Sloan v. Lesza*, 181 F.3d 857, 859 (7th Cir. 1999).

IT IS SO ORDERED.

Date: 08/12/2013


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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